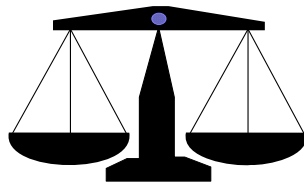


**A SUMMARY OF SELECTED BILLS  
TRULY AGREED TO AND FINALLY PASSED**

**By The  
93rd General Assembly  
Second Regular Session**



**Prepared By  
Office of State Courts Administrator  
July 2006**

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## INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts, or which appear likely to come to the attention of the courts within a short time. Some bills, which may provide for specific types of cases which are expected to be of low volume and therefore not of general interest, have not been included in this summary.

The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Because of the disparate provisions in many of the bills, they have not been arranged by subject matter, but in numerical order. A table of contents is provided at the front of this document.

Bills become effective August 28, 2006 unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

For a copy of any bill, please direct your request to:

Senate Bill Room  
State Capitol  
Jefferson City, Missouri 65101

House Post Office  
State Capitol  
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

## SENATE BILLS

To view the detailed bill summary, fiscal note or bill text, simply hold down the Ctrl key while clicking on the bill name with your mouse. This will take you to the official Bill Tracking System.

### **\*\*SCS [SB 578](#) FUNERAL PROTESTS**

Makes it unlawful for any person to engage in protest activities within one hour prior to the commencement of any funeral service, and until one hour following the cessation of the service. First violations are punishable as a Class B misdemeanor and subsequent violations are punishable as a Class A misdemeanor. This bill has an Emergency Clause Chapter 578, RSMo

### **\*\*[SB 618](#) CHILD SUPPORT PAYMENTS**

Provides that the Family Support Center may issue an electronic access card to custodial parents for the purpose of disbursing child support payments to custodial parents who do not have access to a bank account. §454.530, RSMo

### **\*\*[SB 785](#) JAILERS' DUTIES**

Provides that jailers have the power to serve an arrest warrant on any person who is already an inmate in the custody of the facility in which the jailer is employed. Chapter 221, RSMo

### **\*\*SCS [SB 870](#) APPROPRIATION TRANSFER**

Transfers responsibility for existing appropriation payments from the Office of Administration to other state agencies. Single county circuit juvenile courts are now required to file a copy of their budget with the Office of State Courts Administrator, rather than the Office of Administration. This bill is effective 7/1/06 §37.200, 37.205, 37.210, 37.215, 37.220, 37.225, 37.230, 57.290, 143.183, 211.393, 221.105, 550.190, 550.200, 550.210, 550.220, 550.230, and 550.260, RSMo

### **\*\*HCS SS SCS [SB 872](#), 754 & 669 CONSTRUCTION ZONE VIOLATIONS**

This bill increases various penalties for offenses occurring within highway work zones or construction zones. Under this bill, any person convicted of a second or subsequent moving violation within a work zone shall be assessed a fine of \$75. The bill provides that a person who is convicted of speeding or passing a vehicle within a work zone when a highway worker is present a second or subsequent time shall be assessed a fine of \$300 in addition to any other fine authorized by law (§304.582). The bill also creates the crime of "endangerment of a highway worker." The bill provides that if a person commits the offense of endangerment of a highway worker in which no injury or death results the person shall be subject to a fine of not more than \$1,000 and shall have 4 points assessed to their driver's license. The person shall be guilty of aggravated endangerment of a highway worker if a death or injury results. If a highway worker is injured or killed in a work zone, the offender shall be subject to a fine of not more than \$5,000 for an injury and not more than \$10,000 if death resulted and have 12 points assessed to his or her license.

FAILURE TO YIELD - Imposes an additional penalty and driver's license suspension on any person failing to yield the right-of-way when the violation results in physical injury, serious physical injury, or death to a person (§304.351). This section has an effective date of January 1, 2007.

MOVE-OVER LAW - Increases the penalty on motorists who fail to move over when approached by an oncoming emergency vehicle and motorists who fail to move over when approaching a stationary emergency vehicle from a Class B misdemeanor to a Class A misdemeanor. §304.022, RSMo

INVOLUNTARY MANSLAUGHTER/ASSAULT IN 2ND DEGREE - Under this bill, a person commits the crime of involuntary manslaughter in the 1st degree if he or she fails to move over into another lane of traffic or slow down when he or she approaches a stationary emergency vehicle and with criminal negligence causes the death of an emergency worker. A violation in this nature is a Class B felony (§565.024, RSMo). Under this bill, a person commits the crime of assault in the 2nd degree if he or she fails to move over into another lane of traffic or slow down when he or she approaches a stationary emergency vehicle and with criminal negligence causes injury to an emergency worker performing his or her official duties.

SCHOOL BUS - Enhances the penalties for those who fail to stop for school buses that are loading or unloading children. §304.070, RSMo

BAC OR CHEMICAL TESTS - Provides that a person involved in a motor vehicle accident that results in serious physical injury is deemed to have given consent to chemical tests of the person's blood, breath, saliva or urine to determine alcohol or drug content. §577.020 and §577.021, RSMo

CHILD PASSENGER RESTRAINT LAW - Modifies the law with respect to the use of child passenger safety restraint systems and booster seats. The bill requires children of certain ages, weights and heights to be restrained by either a child passenger restraint system, booster seat or safety belt.

A violation of the child passenger restraint/booster provisions is an infraction and the fine is \$50 plus court costs. The fine for violating the safety belt provision of the bill is \$10. §307.178 and 307.182, RSMo

## **\*\*HCS/SS/SCS [SB 892](#) UNIFORM TRUST CODE/FINANCIAL INSTITUTIONS**

This bill contains numerous provisions relating to financial institutions. It also includes the following provisions:

Specifies that financial institutions shall be served process according to the Missouri Rules of Civil Procedure describing service of corporations. State or federally chartered banks, trust companies, and thrift institutions may appoint a service agent and register that person with the Director of Finance. Allows the Director of Finance to receive service of process for out-of-state banks or trust companies. Currently the Director of Revenue shall collect \$2 for each copy of process. This bill raises the amount to be collected by the director to \$10.

The bill also provides that a person seeking a repossession title to a motorboat, vessel or watercraft, or a manufactured home must present a notice of lien receipt or the original certificate of ownership reflecting the holder's lien. The bill also imposes specific notice requirements upon the lien holder that are similar to the requirements for persons repossessing motor vehicles. The lien holder must give 10 days written notice by 1st class U.S. mail to the owners and other lien holders.

The bill modifies certain provisions of the Uniform Trust Code. The bill defines "ascertainable standard" as one relating to an individual's health, education, support, or maintenance under the Internal Revenue Code. The "power of withdrawal" is redefined to encompass the power of a beneficiary to withdraw assets from the trust without the consent of the trustee or any other person. Similarly, "revocable" as applied to trusts means that the settlor has the legal power to revoke the trust without consent of the trustee or person holding an adverse interest regardless of whether the settlor has the mental capacity to do so in fact.

Settlors may designate by the terms of the trust permissible distributees to receive notification of the trust and other information related to its administration. In trusts where a gift tax marital deduction has been claimed, and the settlor's marriage has been dissolved or annulled, beneficial terms of a trust in favor of the former spouse or fiduciary appointment of the spouse shall not be revoked. Such a situation shall not result in an incomplete gift for federal gift tax purposes or the inclusion of assets of a trust in the gross estate of a settlor for federal estate tax purposes.

A beneficiary who is not a qualified beneficiary may be represented and bound by a qualified beneficiary, as long as there is no conflict of interest between such persons with regard to the question or dispute.

Noncharitable irrevocable trusts may be modified or terminated upon consent of the settlor and all beneficiaries without court approval, unless the trust has been established by a court under certain provisions of law.

The bill also makes §456.4-411B, which provides that the court may terminate or modify the terms of a noncharitable trust in certain instances, applicable to trusts that become irrevocable on or after January 1, 2005, and makes §456.590, which allows the court to confer certain powers on trustees in certain instances, applicable to all trusts that become irrevocable prior to January 1, 2005.

A beneficiary's interest in a trust that is subject to the trustee's discretion shall not constitute an interest in property or enforceable right. A creditor or claimant may not attach distributions from such a right, if it exists, regardless of whether or not the interest is subject to a spendthrift provision.

Additionally, the bill abolishes the doctrine of worthier title and the Rule in Bingham's case as a rule of law and as a rule of construction. §143.471, 301.215, 306.435, 361.711, 361.715, 362.275, 362.445, 404.051, 404.550, 404.714, 408.555, 456.1-103, 456.1-105, 456.1-110, 456.1-112, 456.2-204, 456.3-301, 456.3-304, 456.4-401, 456.4-402, 456.4-411A, 456.4-411B, 456.5-501, 456.5-504, 456.5-506, 456.7-703, 456.8-813, 456.8-814, 456.8-816, 473.333, 473.787, 475.092, 475.130, 475.190, and 700.385, RSMo

#### **\*\*HCS SCS [SB 1001](#), 896 & 761 MOTOR VEHICLES**

Modifies lawful presence requirements for drivers' license, modifies graduated driver's license law and allows highway commission to revoke licenses and registration of motor carriers in certain circumstances.

Exempts persons 65 years of age or older who were previously issued a Missouri noncommercial driver's license, permit or non-driver's license from submitting proof of law presence. The bill allows persons who have held a Missouri driver's license for a period of 15 years or more and do not have the required documents to prove lawful presence to obtain a one-year driver's license renewal. After the expiration of such period, the person must provide proof of lawful presence.

This bill also modifies Missouri's graduated driver's license law with respect to the number of hours of instruction and passenger restrictions. The bill provides that any person who violates the provisions of the intermediate driver's license law or the temporary permit law shall be guilty of an infraction and no points shall be assessed to their driving record for any such violation. Emergency Clause §302.130, 302.171, 302.178, and 302.720, RSMo

#### **\*\*[SB 1014](#) ELECTION ADMINISTRATION**

Among other election law changes, the bill provides that the Supreme Court shall establish a three judge panel in each district of each court of appeals to process petitions from election authorities in case of various disasters and emergencies. Elections may be moved or postponed upon approval of such petitions by the panel. The bill also provides that state courts do not have jurisdiction to extend polling hours. Emergency Clause §115.105, 115.124, 115.126, 115.159, 115.163, 115.223, 115.225, 115.237, 115.247, 115.249, 115.427, 115.430, 115.431, 115.439, 115.445, 115.449, 115.453, and 115.631, RSMo

**\*\*HCS [SB 1023](#) DNA PROFILING**

Extends the August 28, 2006 expiration date for the \$30 surcharge on certain criminal cases that is deposited into the DNA Profiling Analysis Fund to 2013.

Revises the amount assessed to provide that the \$30 will be assessed except when the defendant pleads guilty or is found guilty of a class B felony, class A felony, or an unclassified felony, under chapter 195, RSMo, in which case, the surcharge shall be sixty dollars.

The bill appears to provide that all of these funds might be deposited to general revenue if certain state revenue increases do not occur. In that instance, the "DNA Profiling Analysis Fund" would receive no moneys for that fiscal year. §488.5050, 650.050, 650.055, 650.056, 650.057, and 650.100, RSMo

**\*\*[SB 1146](#) ADMINISTRATIVE REVIEW**

Provides that, in all cases where the law provides for an independent review of an agency's decision by a board other than the administrative hearing commission, and provides for de novo review by the circuit court, an aggrieved party may waive review by the board and file in the circuit court. Such a waiver shall constitute exhaustion of all administrative remedies. §536.010 and 536.100, RSMo

## **HOUSE BILLS**

**\*\*SS SCS HCS [HB 1026](#) FUNERAL PROTESTS**

Makes it a class B misdemeanor to picket or protest within 300 feet in front of or about any location at which a funeral is held within one hour prior to the commencement of any funeral and until one hour following the cessation of any funeral. Any subsequent violation will be a class A misdemeanor. This bill has an Emergency Clause §578.501, RSMo

**\*\*HCS [HB 1053](#) ACCESS TO RECORDS**

Authorizes access to official court records to victims of offenses against the family found in Chapters 566 and 568, RSMo. The official records will be released only for the purpose of using the records in the victim's own judicial proceeding. §610.105, RSMo

**\*\*HCS [HB 1182](#) AGE OF MAJORITY**

Allows a parent, legal guardian, or other person having legal custody of a child who is at least 15 years of age to petition a court to extend the jurisdiction of a juvenile court until the child is 18 years old. These provisions will not apply to a child who has received a high school diploma or its equivalent. §167.031, RSMo

**\*\*[HB 1204](#) JAILERS' DUTIES**

Provides that jailers have the power to serve an arrest warrant on any person who is already an inmate in the custody of the facility in which the jailer is employed. Chapter 221, RSMo



**\*\*HCS [HB 1343](#) LEWIS COUNTY COURTHOUSE**

Repeals the statutes requiring a local circuit court facility at Canton in Lewis County. §478.337, 478.340, 478.343, 478.347, 478.350, and 478.353, RSMo

**\*\*CCS SS SCS HCS [HB 1698](#), 1236, 995, 1362 & 1290 SEX OFFENSES**

This bill changes the laws regarding sexual offenders. In its main provisions, the bill:

- (1) Requires the State Highway Patrol to operate a toll-free telephone number to disseminate information regarding individuals registered as sexual offenders;
- (2) Requires sexual offenders to provide law enforcement officials the date of their birth; their physical description and that of their vehicle; nature and dates of the offenses requiring the offender to register; and the date in which the offender was released from the Department of Health and Senior Services, prison, or jail or placed on parole, supervised release, or probation;
- (3) Requires a licensed health care professional who delivers a baby or performs an abortion to report prima facie evidence of statutory rape or evidence that a patient was the victim of sexual abuse;
- (4) Establishes procedures for search warrants and subpoenas issued for records that are in the actual or constructive possession of a foreign corporation that provides electronic communication services, where those records would reveal the identity of the customers using the service;
- (5) Allows the Board of Probation and Parole to access information on the home computer of a registered sexual offender;
- (6) Expands the scope of defendants to whom bail is unavailable to include defendants who have pled guilty to or been found guilty of any sexual offense under Chapters 566, 568, or 573, RSMo, where the victim was younger than 17 years of age when the crime was committed. Currently, bail is not available to defendants under a sentence of death or imprisonment for life;
- (7) Adds child kidnapping to the list of dangerous felony offenses;
- (8) Increases the term of imprisonment for a persistent sexual offender from not less than 30 years to the duration of his or her natural life;
- (9) Specifies that consent is not an affirmative defense to any offense in Chapter 566 if the alleged victim is younger than 12 years of age;
- (10) Increases the penalty from a minimum of five years' imprisonment to a minimum of 30 years for the crimes of forcible rape and forcible sodomy if the victim is younger than 12 years of age. No person found guilty of or pleading guilty to forcible rape, attempted forcible rape, forcible sodomy, or attempted forcible sodomy will be granted a suspended imposition of sentence or suspended execution of sentence;
- (11) Creates the crimes of attempting to commit statutory rape and attempting to commit statutory sodomy;
- (12) Requires that a person who commits child molestation in the first degree where the victim is younger than 12 years of age and the person has previously been convicted of a sexual offense, inflicts a serious injury, or displays a deadly weapon will be ineligible for probation or parole;

- (13) Expands the crime of sexual contact with a student to include sexual contact with a student of a public school while on public school property by a student teacher, employee of the school, volunteer of the school or of an organization working with the school on a project or program, or a person employed by an entity that contracts with a public school district to provide services;
- (14) Eliminates the act of having deviate sexual intercourse with a person of the same sex from the crime of sexual misconduct in the first degree;
- (15) Expands the crime of sexual contact with a prisoner or offender to include a probation and parole officer who has sexual intercourse or deviate sexual intercourse with an offender who is under the direct supervision of the officer;
- (16) Specifies that no sexual offender will be present or loiter within 500 feet of the real property of any school or in any conveyance owned, leased, or contacted by a school when persons younger than 18 years of age are present unless the offender is a parent, legal guardian, or custodian of the person and has obtained permission from the school administration;
- (17) Increases the penalty for the crimes of enticement of a child and attempting to commit enticement of a child to a term of imprisonment of no less than five years and no more than 30 years;
- (18) Creates the crime of sexual trafficking of a child younger than 12 years of age, a felony punishable by imprisonment for life without eligibility for probation or parole until the defendant has served at least 25 years of each sentence;
- (19) Allows a court to order the dissolution, reorganization, suspension, or revocation of any license or charter surrender of any corporation who has been found guilty of or has pled guilty to certain sexual offenses;
- (20) Creates the crime of promoting travel for prostitution, a class C felony;
- (21) Prohibits travel agencies or charter tour operators from selling, advertising, or offering to sell travel services, tourism packages, or activities that solicit, encourage, or facilitate travel for the purpose of engaging in prosecution. Violation of this provision will result in the revocation of the articles of incorporation of the travel agency or charter tour operator;
- (22) Creates the crime of aiding a sexual offender, a class D felony;
- (23) Removes any person found guilty of or who pled guilty or nolo contendere to nonsexual child abuse or felonious restraint or kidnapping when the victim was a child and he or she was the parent or guardian of the child from the sexual offender registry;
- (24) Allows any person found guilty of or who pled guilty or nolo contendere to promoting prostitution in the second or third degree, committing a public display of sexual material, or committing statutory rape in the second degree where no physical force or threat of physical force was used in the commission of the crime to petition the court for the removal of his or her name from the sexual offender registry after 10 years have passed from the date he or she was required to register;
- (25) Allows any person found guilty of or who pled guilty or nolo contendere to a sexual offense and who was 19 years of age or younger and the victim was 13 years of age or older at the time of the offense and no physical force or threat of physical force was used in the commission of the crime to petition the court for the removal of his or her name from the sexual offender registry after two years have passed from when the offender was found guilty or pled guilty or nolo contendere;

- (26) Requires a person seeking removal from the sexual offender registry to notify the prosecuting attorney in the circuit court in which the petition is filed. Failure to notify the prosecuting attorney will result in an automatic denial of the person's petition. If the petition is denied by the judge, the person must wait at least 12 months before petitioning the court again;
- (27) Requires all sexual offender registrants to report semi-annually and provide an updated photograph of himself or herself in the month of his or her birth to the chief law enforcement agency in the county of his or her residence;
- (28) Specifies that a person who commits the crime of failing to register or failing to comply with the registration requirements will be guilty of a class A misdemeanor. A second offense will be a class D felony, and a third offense will be punishable by a term of imprisonment of not less than 10 years and not more than 30 years;
- (29) Allows the court to conditionally release a person civilly committed as a sexually violent predator if that person's mental abnormality has changed so that the person is not likely to commit acts of sexual violence if released;
- (30) Establishes a panel which will create a program to award grants to multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies for the salaries of newly hired detectives and computer forensic personnel who investigate Internet sex crimes against children. The panel will include the Director of the Department of Public Safety, two members appointed by the director from a list of nominees submitted by the Missouri Police Chiefs Association, two members appointed by the director from a list of nominees submitted by the Missouri Sheriffs' Association, two members of the State Highway Patrol appointed by the director from a list of nominees submitted by the Missouri State Troopers Association, one member of the House of Representatives appointed by the Speaker, and one member of the Senate appointed by the President Pro Tem. This provision will expire six years from the effective date; and
- (31) Requires the Department of Corrections to notify the State Highway Patrol of any offender who is required to be electronically monitored. §43.650, 217.735, 544.671, 547.170, 556.061, 558.018, 559.100, 559.106, 566.010, 566.020, 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.086, 566.090, 566.145, 566.147, 566.151, 568.020, 573.010, 575.195, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, 600.042, 632.484, 632.489, 632.495, 632.498, 632.501, 632.504, and 632.507, RSMo

The bill contains an emergency clause.

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#### **\*\*HB 1857 COMMENCEMENT OF PROSECUTION**

Provides that a prosecution is commenced for a misdemeanor or infraction when the information is filed. A prosecution for a felony is commenced when the complaint is filed. §556.036, RSMo

#### **\*\*HB 1858 PROSECUTOR'S POWER**

Authorizes the prosecuting or circuit attorney to dismiss a complaint, information, or indictment without the consent of the court. Chapter 56, RSMo

**\*\*CCS SS SCS HCS [HB 1944](#) EMINENT DOMAIN**

This bill changes the laws regarding the use of eminent domain. In its main provisions, as they relate to the judiciary, the bill:

Specifies that private property may only be taken through the use of eminent domain after determining blight of the property or the taking is for a public use and not without just compensation;

Requires that for all condemnations filed after December 31, 2006, just compensation for condemned property will be determined by fair market value, homestead taking (an amount equal to fair market value multiplied by 125%), or heritage taking (an amount equal to fair market value multiplied by 150%);

Requires, after the filing of the commissioners' report, the circuit judge presiding over the condemnation to determine whether a homestead taking has occurred and to determine whether heritage value is to be paid to the property owner;

Specifies that at least 60 days prior to initiating negotiations to acquire a property interest, the condemning authority must give actual notification to the owner of record identifying the interest in real property to be acquired; the purpose for which the property is being condemned; and a statement of the property owner's rights including the right to seek legal counsel, to make a counteroffer and engage in negotiations, to obtain the landowner's own appraisal, to contest the condemnation proceeding, and to have just compensation determined preliminarily by court-appointed condemnation commissioners and, ultimately, a jury. The jury will consider the same factors as those used for determining just compensation when blighted property or property for a public use is taken. If the property owner employs an appraiser to appraise the property to be acquired, the appraisal must be delivered to the condemning authority within 60 days;

Requires that before a condemning authority may proceed with condemnation, there must be a court determination that proper and timely notice was given to all property owners, an initial offer no lower than the appraisal amount was given, and that the landowner was given an opportunity to obtain his or her own appraisal from a state-licensed or state-certified appraiser of his or her choice. If the court finds good faith negotiations have not taken place, the court must dismiss the condemnation petition and order the condemning authority to reimburse the owner for his or her actual reasonable attorney fees and costs;

Requires the court to order payment of the landowner's legal fees and expenses and award damages accruing as a direct and proximate result of the pendency of the condemnation if the condemning authority abandons condemnation prior to the final judgment of the court;

Specifies that no condemning authority can acquire private property through the use of the power of eminent domain for solely economic development purposes and defines "economic development" to mean a use of a specific piece of property which would provide an increase in the tax base, tax revenues, or employment for any political subdivision;

Specifies that any easements acquired after December 31, 2006, and abandoned in whole for a period in excess of 10 years may be vacated by a court of competent jurisdiction and upon the property owner paying monetary consideration equal to the original consideration paid by the easement holder. The holder of the easement must be a party to the action and may be allowed to maintain the easement upon a showing, in good faith, that the holder plans to make future use of the easement; and

Specifies that within 30 days of the initial notice by the condemning authority, a landowner may propose an alternative location on his or her property which must be considered by the condemning authority. §99.120, 99.460, 100.420, 238.247 353.130, 523.040, 523.055, 523.060, 523.200, and 523.205, RSMo

**\*\*[HJR 55](#) COMPENSATION OF PUBLIC OFFICIALS**

Beginning January 1, 2007, this proposed constitutional amendment prohibits, upon voter approval, public officials convicted of felonies while serving in office, removed from office for misconduct, or impeached from receiving any state pension.

The amendment requires a two-thirds majority vote by the General Assembly in order to veto the compensation schedule recommended by the Missouri Citizens' Commission on Compensation for Elected Officials. The requirement that the compensation schedule be subject to appropriations by the General Assembly is repealed. No compensation schedule approved by the commission will apply to members of the General Assembly until January 1, 2009. Article XIII, Section 3

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